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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,444	07/18/2003	Victor Riccardi	A1141	7623
7590	05/11/2004		EXAMINER	
Karin A. Russo 49 Great Oak Ln Redding, CT 06896			VALENTI, ANDREA M	
			ART UNIT	PAPER NUMBER
			3643	
DATE MAILED: 05/11/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/622,444

Applicant(s)

RICCARDI, VICTOR

Examiner

Andrea M. Valenti

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14-17 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-17 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 March 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Group II claims 14-17 and 19 on 5 April 2004 is acknowledged.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the series of perforations that pierce the material as claimed in claim 14 and 16 must be shown and indicated by an element number or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 17, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,944,696 to Effgen.

Regarding Claim 14, Effgen teaches a tray liner that is insertable into a mushroom-growing tray that tray liner comprising a substantially rectangular base

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member manufactured in a material in a blank having a notch at each corner (Fig. 1), and; a series of relief's (#18) running parallel to each edge of side and an end of the rectangular base member wherein the series of relief's are either formed or perforated to aid in the bending and formation of a box-like structure thereby forming the tray liner.

Regarding Claim 17, Effgan teaches the series of relief's is comprised of a series of compressed lineal area that permit bending the material so as to form the box-like structure and resulting tray liner (Fig. 1).

Regarding Claim 19, Effgan teaches the tray liner wherein the corner-liner component is generally formed into an upstanding, right angle member having two upstanding side panels with a lip projecting at right angles from each side of the panel that will mate with a lip on an end and side portion of the formed tray liner (FIG. 1 and Fig. 2 top part of #14).

Claims 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,186,328 to Apps.

Regarding Claim 14, Apps teaches a tray liner that is insertable into a mushroom-growing tray that tray liner comprising a substantially rectangular base member manufactured in a material in a blank having a notch (#38) at each corner, and; a series of relief's (Fig. 2 horizontal grid lines) running parallel to each edge of side and an end of the rectangular base member wherein the series of relief's are either formed or perforated to aid in the bending and formation of a box-like structure thereby forming the tray liner.

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Regarding Claim 15, Apps inherently teaches the liner is formed of a material comprising polyethylene, polystyrene, polypropylene or polytheylene terephthalate (Col. 1 line 20).

Regarding Claim 16, Apps teaches the series of relief's is comprised of a series of perforations that semi-pierce the material so as to permit forming the box-like structure into the tray liner (Fig. 2 #18).

Regarding Claim 17, Apps teaches the series of relief's is comprised of a series of compressed lineal area that permit bending the material so as to form the box-like structure and resulting tray liner (Fig. 2).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,944,696 to Effgen.

Regarding Claim 15, Effgen is silent on the liner is formed of a material comprising polyethylene, polystyrene, polypropylene or polytheylene terephthalate. However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since the modification is merely the selection of a known material for intended use as an engineering design choice to meet design

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parameters such as manufacturing costs and does not present a patentably distinct limitation.

Claims 14-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,604,150 to Baumann in view of U.S. Patent No. 3,967,747 to Wagner.

Regarding Claim 14, Baumann teaches a tray liner that is insertable into a mushroom-growing tray that tray liner comprising a substantially rectangular base member manufactured in a material and; a series of relief's (Baumann Fig. 2 #9 and Fig. 3 #11) running parallel to each edge of side and an end of the rectangular base member wherein the series of relief's are either formed or perforated to aid in the bending and formation of a box-like structure thereby forming the tray liner.

Baumann is silent on the liner having a notch in each corner. However, Wagner teaches a notch in each corner (Wagner #4). It would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention for the drainage means taught by Wagner (Wagner Col. 2 line 63).

Regarding Claim 15, Baumann as modified inherently teaches the liner is formed of a material comprising polyethylene, polystyrene, polypropylene or polythethylene terephthalate (Baumann Col. 1 line 27).

Regarding Claim 16, Baumann as modified the series of relief's is comprised of a series of perforations that semi-pierce the material so as to permit forming the box-like structure into the tray liner (Baumann #6).

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Regarding Claim 17, Baumann as modified teaches the series of relief's is comprised of a series of compressed lineal area that permit bending the material so as to form the box-like structure and resulting tray liner (Baumann Fig. 2).

Regarding Claim 19, Baumann as modified teaches the tray liner wherein the corner-liner component is generally formed into an upstanding, right angle member having two upstanding side panels with a lip projecting at right angles from each side of the panel that will mate with a lip on an end and side portion of the formed tray liner (Baumann Fig. 3 #2).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,173,273; U.S. Patent No. 6,539,882; U.S. Patent No. 4,105,121; U.S. Patent Pub. US 20030159344A1; U.S. Patent No. 5,953,859; U.S. Patent No. 6,606,823; French Patent 2547561; U.S. Patent No. 3,751,852; U.S. Patent No. 4,349,124; U.S. Patent No. 5,709,167; U.S. Patent No. 4,501,363; U.S. Patent No. 4,658,542; U.S. Patent No. 1,983,806.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

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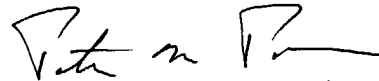
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrea M. Valenti  
Examiner  
Art Unit 3643

26 April 2004



Peter M. Poon  
Supervisory Patent Examiner  
Technology Center 3600